

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 11-20-15 DA

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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF THE SUSPENSION OR
REVOCATION OF THE LICENSE OF

Gary Brousell, D.D.S.
License No. ~~22DI00106900~~
22DI01069000 DA
TO PRACTICE DENTISTRY IN THE
STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Dentistry (the "Board") on or about October 29, 2015, upon receipt of information that Gary Brousell, D.D.S. License No. 22DI00106900 through counsel, Joseph Cooney, Esq, is desirous of surrendering his license to practice dentistry in the State of New Jersey. Additionally, the licensee seeks to record this surrender as a permanent retirement.

The Board's file in this matter reflects that in response to Board concerns about Dr. Brousell's medical status, he offered to cease and desist the practice of dentistry for the purposes of undergoing an evaluation by the Professional Assistance Program of

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New Jersey ("PAP-NJ"). That offer was then memorialized in a Private Letter Agreement ("PLA") in August 2015 (see attached). The doctor has expressed his desire to enter the within Order while under investigation for the violation of that PLA. In addition, the Board's file also reflects an earlier investigation of Respondent's treatment of patient V.R. which remains unresolved. In the interests of expediency and given the permanent nature of the within resolution, the instant Order addresses both the issue of non-compliance with the PLA and the earlier pending matter of V.R. that involved clinical care.

Respondent, Gary Brousell, D.D.S., through his counsel, being desirous of addressing these matters without the necessity of further formal proceedings before the Board, and agreeing to waive any right to same, and the Board, finding the within disposition is adequately protective of the public health, safety and welfare, and other good cause having been shown,

IT IS, therefore, on this 20th day of November, 2015,

ORDERED THAT:

1. The license to practice dentistry issued to Respondent Gary Brousell, D.D.S., is hereby voluntarily surrendered to be deemed a permanent retirement with prejudice. This means that Dr. Brousell agrees that he will not seek to restore his license in the future,

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and that the Board will not entertain any application for re-licensure filed by Dr. Brousell.

2. Dr. Brousell shall not be physically present in any dental office in this State when patients are present, except to undergo his own or an immediate family member's dental treatment by a licensed dentist.

3. Dr. Brousell shall make arrangements with his attorney to immediately return his original New Jersey license for the current biennial period, CDS registration, and DEA registration to the State Board of Dentistry, Attention: Jonathan Eisenmenger, Executive Director, State Board of Dentistry at 124 Halsey Street, Post Office Box 45005, Newark, New Jersey 07101. Dr. Brousell shall immediately return prescription pads bearing his name, to the State Board of Dentistry, Attention: Jonathan Eisenmenger, Executive Director, State Board of Dentistry at 124 Halsey Street, Post Office Box 45005, Newark, New Jersey 07101.

4. Dr. Brousell shall comply with the attached directives.

5. The parties having previously agreed that if Dr. Brousell violates the terms of the PLA, the PLA will be considered an Order of the Board entered into by consent and will become public, the PLA is now a public document and is attached hereto.

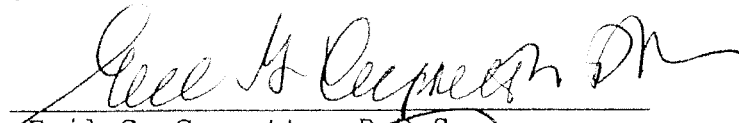
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6. Upon entry of this Order, Respondent shall submit to the Board a payment of \$3,900.00 representing the amount to be reimbursed to V.R. as restitution for her treatment.

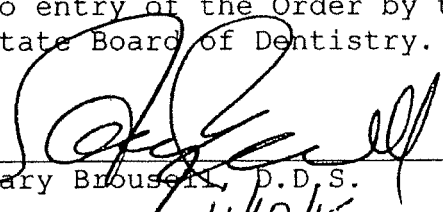
7. Upon entry of this Order, Dr. Brousell shall reimburse the Board for the costs of investigation incurred in investigating his conduct subsequent to the execution of the PLA in the amount of \$4,421.00.

8. This Order of Surrender to be deemed a Permanent Retirement shall be considered the final resolution of any and all matters pending before the Board of Dentistry with regard to Dr. Brousell, as of the date of entry.

NEW JERSEY STATE BOARD OF DENTISTRY

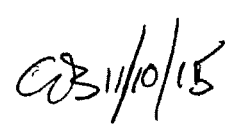
By: 
Emil G. Cappetta, D.D.S.
President

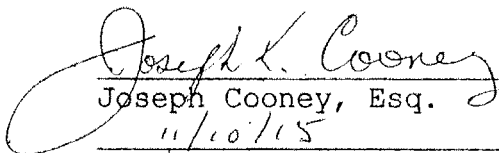
I have read the within Order,
understand its terms and agree
to be bound by them. I consent
to entry of the Order by the
State Board of Dentistry.


Gary Brousell, D.D.S.

Dated 11/10/15

I consent to form and entry of the Order.





Joseph Cooney, Esq.
11/10/15

Dated

COB 11/10/15



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Dentistry
124 Halsey Street, 6th Floor, Newark, NJ 07102



JOHN J. HOFFMAN
Acting Attorney General

STEVE C. LEE
Acting Director

August 7, 2015

Mailing Address:
P.O. Box 46005
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(973) 504-6405

VIA ELECTRONIC MAIL

Dr. Gary Brousell, D.D.S.
c/o Stephen Schechner, Esq.
Schechner Marcus LLP
155 Morris Avenue
Suite 203
Springfield, New Jersey 07081

RE: Private Letter Agreement

Dear Dr. Brousell:

The New Jersey State Board of Dentistry ("the Board") has reviewed a letter dated July 17, 2015, from Tampa General Hospital ("Tampa") in which it is reported that you admitted during your psychiatric assessment at Tampa to a history of using controlled dangerous substances ("CDS") from your dental practice for non-medical or dental purposes. It was further reported by Tampa that you admitted to such use as recently as May 2015.

Based on the information available, including your denial of such statements, and in order to investigate these allegations further, the Board requests that you enter into this Private Letter Agreement ("PLA"). The Board has determined that further investigation is warranted and the PLA, at this time, is consistent with the public's health, safety, and welfare.

However, should you fail to comply with the terms and conditions of the PLA, or if the Board's investigation reveals additional information that would warrant discipline, the Board may pursue disciplinary proceedings against you that could result in a suspension or revocation of your license. You should further be aware that the Board has the authority, as set forth at N.J.S.A. 45:1-21, to take action to suspend or revoke a license if a licensee engages in conduct that violates the Dental Practice Act or the Uniform Enforcement Act. If you violate the terms of the PLA, the Board may pursue disciplinary action against you, at which time, the PLA, will be considered an Order of the Board entered into by consent, and will become public and used in a proceeding regarding your license.

By entering into this agreement, you agree:

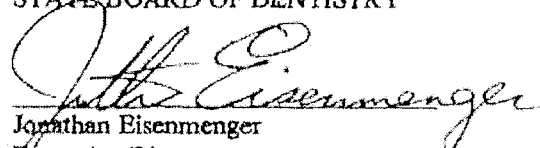
1. To immediately cease and desist from the clinical practice of dentistry in the State of New Jersey. You will be permitted to be in your office only for administrative purposes.

2. You will not have access to the CDS maintained in your office. Your office will continue to use the biometric safe as described in your August 4, 2015 letter to the Board.
3. To immediately arrange, at your expense, for an assessment and evaluation with the Professional Assistance Program ("PAP"). During the assessment and evaluation, you are to provide the PAP with all information requested so that the PAP can make a determination as to the treatment and/or monitoring, if any, that is warranted. If treatment or monitoring is recommended by the PAP, you agree to comply with the recommendations.
4. To sign all necessary releases with the PAP and all parties who are participating in the evaluation and assessment in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. You further agree that any information received by the Board from the PAP regarding your assessment and evaluation may be used in connection with any proceedings pertaining to your license.
5. To cooperate with the Board in its investigation into the above allegations. You are also reminded that as a licensee, you have a duty to cooperate pursuant to N.J.A.C. 13:45c-1.2.

Modification of the terms of this PLA may be requested by petitioning the Board in writing, at which time the Board may consider the recommendations of the Executive Medical Director of the PAP, as well as the results of the investigation into the allegations contained in the July 17, 2015, letter from Tampa General Hospital.

If you are in agreement with the Board's offer in this matter, please sign the PLA as your acknowledgment of the terms and return it to the Board by Tuesday, August 11, 2015. It will then be filed with the Board and you will receive a filed copy.

Sincerely,
STATE BOARD OF DENTISTRY

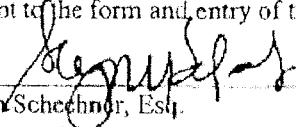

Jonathan Eisenmenger
Executive Director

I have read and understand this Private Letter Agreement and agree to comply with its terms.


Gary Brousell, D.D.S.

August 11, 2015
Date

I consent to the form and entry of this Private Letter Agreement


Stephen Schechner, Esq.

8/13/15
Date

**DIRECTIVES APPLICABLE TO ANY DENTISTRY BOARD LICENSEE
WHO IS SUSPENDED, REVOKED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

A practitioner whose license is suspended or revoked or whose surrender of license has been accepted by the Board, shall conduct him/herself as follows:

1. Document Return and Agency Notification

The licensee shall promptly deliver to the Board office at 124 Halsey Street, 6th floor, Newark, New Jersey 07102, the original license and current biennial registration certificate, and if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances Registration. With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board.

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of dentistry in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry. The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee of this Board provides health care services. Unless otherwise ordered by the Board, the disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by the practice or any other licensee or health care provider. In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from all prescription blanks and pads, professional listings, telephone directories, professional stationery, or billings. If the licensee's name

is utilized in a group practice title, it shall be deleted.

Prescription pads bearing the licensee's name shall be destroyed. A destruction report form shall be obtained from the Office of Drug Control (973-504-6558) and filed with that office. If no other licensee is providing services at the practice location, all medications must be removed and returned to the manufacturer (if possible), or destroyed or safeguarded. In situations where the licensee has been suspended for a period of less than one year, prescription pads and medications must be secured in a locked place for safekeeping.

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice, and shall be required to comply with the requirements to divest him/herself of all financial interest in the professional practice pursuant to Board regulations contained in N.J.A.C. 13:30-8.21. Such divestiture shall occur within 90 days following the entry of the Board Order. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the New Jersey Department of Treasury, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Patient Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to patient records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her patient's record or asks that the record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

A disciplined practitioner whose active suspension of license has been stayed in full or in part, conditioned upon compliance with a probation or monitoring program, shall fully cooperate with the Board or its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a.) Monitoring of practice conditions may include, but is not limited to, inspection of professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with Board Order and accepted standards of practice.

(b.) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual or facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by the rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and by providing the designated sample.

6. Reports of Reimbursement

A disciplined practitioner shall promptly report to the Board his/her compliance with each directive requiring monies to be reimbursed to patients to other parties or third party payors or to any Court.

7. Report of Changes of Address

A disciplined practitioner shall notify the Board office in writing within ten (10) days of change of address.

NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Dentistry are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record thereof, including the transcript and documents marked in evidence, are available for public inspection upon request.

Pursuant to Public Law 101-191, the Health Insurance Portability and Accountability Act, the Board is obligated to report to the Healthcare Integrity and Protection Data Bank any adverse action relating to a dentist:

- (1) Which revokes or suspends (or otherwise restricts) a license; or
- (2) Which censures, reprimands or places on probation, or restricts the right to apply or renew a license; or
- (3) Under which a license is surrendered.

In accordance with an agreement with the American Association of Dental Examiners, a report of all disciplinary orders is provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order may appear on the public agenda for the monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board. In addition, the same description may appear on the Internet Website of the Division of Consumer Affairs.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.